

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

V.

CAUSE NO.: 1:11CR114-SA

JAMES WILLIAM SMITH

DEFENDANT

ORDER ON MOTION FOR CLARIFICATION

Defendant James Smith asks the Court to clarify whether the Motion for a New Trial was denied on the merits in the Court's Memorandum Opinion dated November 26, 2012.

In that Memorandum Opinion, the Court held that "[b]ased on the applicable standards [of Rule 33], the Court finds that a new trial is not warranted in this case as acquittal is proper."

The standard for granting a new trial, as enunciated by the Court, is as follows:

Rule 33 allows the Court to "vacate any judgment and grant a new trial if the interest of justice so requires." FED. R. CRIM. P. 33(a). "The grant of a new trial is necessarily an extreme measure, because it is not the role of the judge to sit as a thirteenth member of the jury." United States v. O'Keefe, 128 F.3d 885, 898 (5th Cir. 1997). Therefore, "motions for new trial are not favored, and are granted only with great caution." Id. (citing United States v. Hamilton, 559 F.2d 1370, 1373 (5th Cir. 1977)). "A new trial is granted 'only upon demonstration of adverse effects on substantial rights of a defendant.'" United States v. Rasco, 123 F.3d 222, 228 (5th Cir. 1997) (quoting United States v. Cooks, 52 F.3d 101, 103 (5th Cir. 1995)). An error affects the defendant's substantial rights if "it affected the outcome of the trial court proceedings." United States v. Alarcon, 261 F.3d 416, 423 (5th Cir. 2001).

The Court reviewed the merits of Defendant's motion for a new trial and denied that request on its merits. On appeal, the Fifth Circuit found no error or abuse of discretion in the Court's denial of Defendant's Motion for a New Trial. Accordingly, the Court GRANTS the Motion for Clarification [114].

SO ORDERED, this the 21st day of May, 2014.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE